

Malta - The Blockchain Island

Malta regulating Blockchain, DLT and Cryptocurrencies

On 4 July 2018, the Maltese Parliament approved three bills regulating Blockchain and Distributed Ledger Technology (DLT), including Initial Coin Offerings (ICOs) into law. This is a very important milestone which puts Malta at the forefront of the blockchain industry.

Consequently, Malta became the leader in regulating this industry by establishing a holistic legislative framework for the treatment of cryptocurrencies, the launch of ICOs and the treatment of assets offered to investors, as well as blockchain service providers, including the setting up of currency exchanges. In fact, throughout the past year Malta has experienced an ever-increasing interest in this industry from various players who chose to set up in Malta, including Binance which is one of the largest cryptocurrency exchanges in the world.



This comprehensive and friendly framework enables investors to make sound decisions by having legal certainty backing their investments, which is achieved through the provision of a secure environment in the industry. This helps in promoting integrity and growth in the market.

Malta has certainly become the world's 'Blockchain Island' and the first jurisdiction to provide legal certainty to this industry.

The Three Acts regulating Blockchain, DLT and Cryptocurrencies are:

The Malta Digital Innovation Authority Act (MDIA)

The MDIA provides for the establishment of a new Authority, known as the Malta Digital Innovation Authority. The aim of this Authority is to support the development and implementation of the guiding principles, as well as to promote consistent principles for the development of visions, skills and other qualities relating to blockchain technology, innovation arrangements and services.

The Innovative Technology Arrangements and Services Act (ITAS)

The ITAS establishes a regime for the regulation and registration of Innovative Technology Arrangements, including smart contracts, and Innovative Technology Service Providers.



The Virtual Financial Assets Act (VFA)

The VFA aims to regulate the field of Initial Virtual Financial Assets Offerings and Virtual Financial Assets, including the establishment of a framework within which ICOs, cryptocurrencies, cryptocurrency exchanges and other related services would operate. This Act also provides for the establishment of the Financial Instrument Test which applies for the determination of DLT.

The Financial Instrument Test aims to determine whether a particular DLT asset:

- qualifies as a Financial Instrument under the Markets in Financial Instruments Directive (MiFID) and the Maltese Investment Services Act (ISA). A Security Token generally falls within the afore-mentioned framework;
- qualifies as a Virtual Token, generally referred to as a pure utility token, which is a form of digital medium recordation that has no utility, value or application outside the DLT platform and consequently cannot be traded or exchanged outside its platform. These tokens would not fall within the scope of the said Act; and
- which is neither classified as a Financial Instrument nor a Virtual Token, would fall within the scope of the VFA, and thus considered as a Virtual Financial Asset.

These Acts will provide endless opportunities for innovators in the process of launching DLT platforms and other related business to such field.



Maltese Income Tax Implications:

To-date, Malta does not have a specific regime covering the taxation of cryptocurrency transactions and the blockchain. Thus, one has to rely on the general principles of taxation in force in Malta. In such cases, one would need to differentiate between transactions of a capital and trading nature by applying the badges of trade.

Transactions of a capital nature would generally fall outside the scope of Malta income tax, whilst profits arising from any trade or business are deemed to be Malta taxable income which will be subject to tax at the applicable Malta tax rates.

Therefore, the Maltese tax legislation applicable to general trading companies is also extended to companies trading in cryptocurrencies and blockchain. The corporate tax rate in Malta is 35% on taxable profits. However, upon a dividend distribution of such taxed profits, the direct shareholder may benefit from the Malta tax refund system, whereby one would be able to claim a 6/7ths refund of the Malta tax paid, resulting in an effective Malta tax rate of 5%.

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